

CLINTON BROWN, Pro Se
16821 Edgar Street
Pacific Palisades, CA 90272
clinton@atlasinc.solar
310-487-6453



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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CLINTON BROWN,
Plaintiff,

vs.

CLARK R. TAYLOR, AICP, THE
LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL
PLANNING,
Defendant.

CASE NO. 2:22-cv-09203-MEMF-KS

Motion to Strike

Judge: Honorable Maame Ewusi-
Mensah Frimpong

Magistrate Judge: Karen L.
Stevenson

Action Filed: 12/17/2022

Action Due: 01/12/2023

MOTION TO STRIKE

NOTICE TO THE DISTRICT JUDGE, pursuant to *F.R.C.P. 12(f)(2)*, Plaintiff respectfully requests that the Court strike all affirmative defenses submitted by the Defendant.¹ The Court, *sua sponte*, may strike an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. *F.R.C.P. 12(f)(1)*.

Affirmative Defense One (1)

Defendant's claim of immunity is insufficient as a matter of law in defense of a Fifth Amendment Takings claim. Defendant concedes *42 U.S.C. § 1983* arises

Note: The Complaint, Answer, and Affirmative Defenses in the Answer, are referred to in this motion, respectively and exclusively.

Federal jurisdiction. (Page 1, lines 23-24 admits). Defendant also attests to acting in their official capacity and within the scope of their authority as a government official. (Page 2, lines 25-26, 28 admits). *28 U.S.C. § 1343(a)(3)*.

Affirmative Defense Two (2)

Defendant's affirmative defense invoking Rule 19 is insufficient as a matter of law. *Defendant has admitted that the jurisdiction and venue is appropriate under 28 U.S.C. 28 § 1343, 42 U.S.C. § 1983 and 28 U.S.C. § 1391, respectively.* (Page 1, lines 23-24 admits; Page 2, lines 10-11, admits). (Emphasis added).

Affirmative Defense Three (3)

The affirmative defense of insufficient service is insufficient as a matter of fact and law. *The Defendant confirms the parties in the case.* (Page 2, lines 17-20, 22-23 admits). (Emphasis added). “Rule 4 is a flexible rule that should be construed liberally so long as the party receives sufficient notice of the complaint.” *United Food & Commercial Workers Union, Locals 197, 373, 428, 588, 775, 839, 870, 1119, 1179, and 1532, chartered by United Food & Commercial Workers International Union, AFL-CIO v. Alpha Beta Co., 736 F.2d 1371(9th Cir. 1984)*.

Affirmative Defense Four (4)

The affirmative defense that the Plaintiff has failed to “comply” with state tort or otherwise is insufficient as a matter of law. Plaintiff chose federal jurisdiction according to statute *42 U.S.C. 1331* and *Knick v. Twp. of Scott, 139 S. Ct. 2162 (2019)*. The *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City, 473 U.S. 172 (1985)* finality requirement has been admitted by the Defendant. (Page 3, lines 26-28 admits; Page 4, lines 6-10, 12-19 admits).

Affirmative Defense Five (5)

Plaintiff has one (1) claim, and if indeed, there was no claim to constitute a cause of action, then the case would be dismissed by the Court under statute *42 U.S.C. § 1915(e)(2)(B)(ii)*, as a matter of law.

Affirmative Defense Six (6)

This affirmative defense is insufficient as a matter of law and fact. The Defendant has not provided any evidence or reasoning to show how an open space dedication document would preclude a Takings claim. The Defendant's own admission reveals the *specific reason* for the REJECTED application. (Page 3, lines 26-28; Page 4, lines 1-2, 6-10, 12-19). (Emphasis added).

Affirmative Defense Seven (7)

This affirmative defense is insufficient as a matter of fact. The Plaintiff had no reasonable investor expectations for *installing and operating a utility-scale solar facility on Plaintiff's private property?* (Citations omitted).

Affirmative Defense Eight (8)

Defendant's affirmative defense negates a Plaintiff's claim is insufficient as a matter of fact and law. The Defendant admits the overlay encompasses the *entire property* and that the project was *wholly within* and covering the *entire parcel*. (Page 4 lines 1-2, 16-17, 23-25) *Murr v. Wisconsin*, 137 S. Ct. 1933 (2017). (Emphasis added).

THEREFORE, the Plaintiff asks the Court to strike the affirmative defenses submitted by Defendant to minimize delay, cost, and confusion on the issues for discovery and trial.²

“I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.”

Clinton Brown

03/19/2023

² The Federalist No. 83, (1788).